



[BILLING CODE: 6750-01S]

FEDERAL TRADE COMMISSION

[File No. 112 3209]

Billion Auto, Inc.; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

DATES: Comments must be received on or before April 16, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Billion Auto, File No. 112 3209" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/billionautoconsent>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robin Thurston (202-326-2752), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade

Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 14, 2012), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 16, 2012. Write "Billion Auto, File No. 112 3209" on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health

information. In addition, do not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/billionautoconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Billion Auto, File No. 112 3209” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 16, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission ("FTC") has accepted, subject to final approval, an agreement containing a consent order from Billion Auto, Inc. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The respondent is a motor vehicle dealer. The matter involves its advertising of the purchase, financing, and leasing of its motor vehicles. According to the FTC complaint, respondent has represented that when a consumer trades in a used vehicle in order to purchase another vehicle, respondent will pay off the balance of the loan on the trade-in vehicle such that the consumer will have no remaining obligation for any amount of that loan. The complaint alleges that in fact, when a consumer trades in a used vehicle with negative equity (*i.e.* the loan balance on the vehicle exceeds the vehicle's value) in order to purchase another vehicle, respondent does not pay off the balance of the loan on the trade-in vehicle such that the

consumer will have no remaining obligation for any amount of that loan. Instead, the respondent includes the amount of the negative equity in the loan for the newly purchased vehicle. The complaint alleges therefore that the representation is false or misleading in violation of Section 5 of the FTC Act. In addition, the complaint alleges violations of the Truth in Lending Act (“TILA”) and Regulation Z for failing to disclose certain costs and terms when advertising credit. The complaint also alleges a violation of the Consumer Leasing Act (“CLA”) and Regulation M for failing to disclose the costs and terms of certain leases offered.

The proposed order is designed to prevent the respondent from engaging in similar deceptive practices in the future. Part I of the proposed order prohibits the respondent from misrepresenting that it will pay the remaining loan balance on a consumer’s trade-in vehicle such that the consumer will have no obligation for any amount of that loan. It also prohibits misrepresenting any other material fact relating to the financing or leasing of a motor vehicle.

Part II of the proposed order addresses the TILA allegations. It requires clear and conspicuous TILA/Regulation Z disclosures when advertising any of the relevant triggering terms with regard to issuing consumer credit. It also requires that if any finance charge is advertised, the rate be stated as an “annual percentage rate” using that term or the abbreviation “APR.” In addition, Part II prohibits any other violation of TILA or Regulation Z.

Part III of the proposed order addresses the CLA allegation. It requires that the respondent clearly and conspicuously make all of the disclosures required by CLA and Regulation M if it states relevant triggering terms, including the monthly lease payment. In addition, Part III prohibits any other violation of CLA and Regulation M.

Part IV of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Part V requires

that respondent provide copies of the order to certain of its personnel. Part VI requires notification of the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Part VII requires the respondent to file compliance reports with the Commission. Finally, Part VIII is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.

By direction of the Commission.

Donald S. Clark
Secretary.

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